

MEMORANDUM

TO: White House Task Force on Energy Project Streamlining

FR: Tucson Electric Power Company

RE: Background on Interagency and Inter-Jurisdictional Review of Proposed New Electric Transmission Project in Arizona

DT: December 17, 2003

I. Introduction and Summary

The purpose of this memorandum is to provide the White House Task Force on Energy Project Streamlining with background information on efforts by the State of Arizona's electric utility regulatory agency, the Arizona Corporation Commission (ACC) to site, and Tucson Electric Power Company (TEP) to develop a high-voltage, high-capacity electric transmission line extending southward from Sahuarita, Arizona, near Tucson, to the City of Nogales, Arizona, on the U.S.-Mexico border, and crossing the border to interconnect with the Mexican electric grid just south of Nogales, Sonora.

The project in question is generally known as the "Sahuarita-Nogales Transmission Line" or the "Gateway Transmission Project." TEP is pursuing the project in connection with an order from the ACC, which has determined that the transmission grid serving the Nogales area is inadequate to provide reliable electric service. The area has experienced frequent outages and voltage problems that are not only inconvenient and disruptive to normal business and household uses, but represent potential threats to public health and safety in the fast-growing border area. The new transmission line will, if built, provide the reliability the ACC requires for southern Arizona power users. The new line will also allow power exchanges between US and Mexican energy markets, a step that will improve the reliability and efficiency of the regional grid and support economic growth on both sides of the border.

The project is being reviewed by state and federal regulatory agencies. The state's principal regulatory responsibility, vested exclusively in the ACC, is to decide whether the transmission line is necessary to provide adequate electrical service. The ACC has made that factual determination: the new line is needed and in the public interest. Based on public hearings, the ACC identified the route that will best meet the public interest. The state's review process is completed and has been complete for nearly two years.

The federal review process has been underway since 2000 and a completion date is uncertain, with some key federal agency estimates placing completion of all federal reviews as much as *three or more years into the future*. Five federal agencies (US Department of Energy, US Forest Service, US Fish and Wildlife Service, Bureau of Land Management, and the US Section of the International Boundary Waters Commission) are involved in the project's review.

Each agency has a distinct but fragmentary institutional interest in the potential transmission line, but none of the individual federal agencies has overall responsibility or authority. None of the federal agencies reviewing the project describes its mission (or reasons for participating in the review) to include helping ensure reliability of present or future electric service in Arizona (although the Department of Energy will consider the impact of the proposed international interconnection on the reliability of the US grid and domestic energy supplies). Four of the federal agencies are collaborating in preparation of an environmental review of the project, but troubling signals have emerged regarding the ability of the agencies to coordinate with each other and the ACC on a final decision.

The Sahuarita-Nogales transmission line project is an important component of efforts to strengthen the nation's energy infrastructure, and will directly benefit a large number of Arizonans who now receive inadequate electrical service. The proposed connection to the Mexican power grid will open untapped markets, benefiting power consumers and economies in both countries.

The new line is exactly the type of investment in America's future that the Bush Administration has supported and urged the private sector to undertake. TEP and the State of Arizona are ready to proceed, but the federal review process is incomplete and facing substantial uncertainty and delay.

Rather than be allowed to stretch on for years, or to degenerate into overt conflict among the agencies or with Arizona, the federal review process should be completed in a timely, efficient way. TEP has brought this issue to the White House Task Force because an exceptional level of interagency coordination and cooperation will be needed to allow the agencies to reconcile their different roles and perspectives with those of each other and with the State of Arizona. The Task Force was established to provide that type of leadership and is uniquely equipped to do so. TEP believes that, with adequate leadership, the federal review process can be completed by the middle of 2004, and that the Task Force should set May 1, 2004 as a deadline.

II. Discussion

a. *State of Arizona Administrative Proceedings*

The impetus to construct a transmission line linking Tucson to Nogales and the Mexican grid arises from two primary sources. First, the transmission infrastructure serving southern Arizona is inadequate for current and future needs. Second, energy analysts representing government and industry on both sides of the border have long seen compelling operational and economic advantages in joining the two countries' power systems in the Arizona-Sonora region.

In the summer of 1998 the Nogales-Santa Cruz County area of southern Arizona experienced a debilitating series of power outages. The fast-growing area is currently served by a single 115kV line and is, for all practical purposes, "at the end of the line" for regional electric service.

The Arizona Corporation Commission is the state agency charged with regulation of Arizona's electric utilities and responsible for assuring Arizona citizens a safe, reliable power system. State law also charges the ACC with safeguarding the public interest by balancing the need for an adequate, economical and reliable supply of electric power with the desire to minimize the effect thereof on the environment and ecology of Arizona.¹

Following the 1998 power outages in Nogales, the ACC held proceedings to examine the problem and concluded that the area lacked adequate electric transmission infrastructure and would inevitably face repeated outages without new transmission services.² The ACC initially ordered the then-local electric utility, Citizens Utilities Company (Citizens), to develop a plan to remedy the service problem, and Citizens' submitted a plan to the ACC in July 1999 to build a new, second 115kV transmission line running from the Tucson area to Nogales.³ The ACC held public hearings on the proposal and in November 1999 ordered Citizens to build the new line and place it into service by December 31, 2003.

The general topic of interconnecting the US and Mexican power grids has been under active discussion since at least 1990 when the US Department of Energy and its Mexican counterpart, the Mexico Secretariat of Energy, Mines and State Industries issued a report entitled "US/Mexico Electricity Trade Study." The study specifically identified a need to establish a major transmission interconnection between Arizona and the national electric utility of Mexico, the Comision Federal de Electricidad (CFE). TEP participated in the DOE-CFE study and subsequently has investigated various potential projects to make such an interconnection.

In 1992, TEP and many other electric, pipeline, and telecommunications utilities participated in the "Western Regional Corridor Study." This public-private study included all federal land management agencies, including the US Forest Service and the Interior Department. The study identified utility corridors that should be used for planning and siting future utility infrastructure in the region. The study endorsed, among others, a corridor that extended from Tucson south to Nogales, crossing both Forest Service and BLM lands.

Tucson Electric's own analyses of the issue determined that an interconnection with Mexico would improve the reliability of Tucson's transmission system, and support significant economic benefits for power customers in the US and Mexico. The company began preliminary planning for a new transmission interconnection as early as 1994. In late 1999, TEP became aware of Citizens' plan to build a new 115kV line in the same area. At that point, TEP approached Citizens with a proposal to pursue a single, integrated project instead of two separate ones. After preliminary discussions, Citizens and TEP approached the ACC Staff with a proposal for a joint project, which the Staff fully supported.

¹ Arizona Rev. Stat. 40-360-07(b).

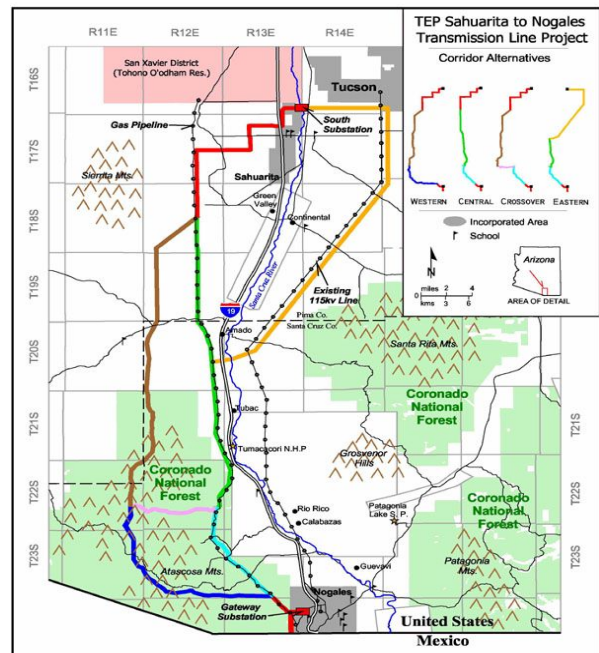
² The ACC is led by a five-member elected Commission, served by a professional staff of engineers, environmental specialists, and other analysts.

³ The Nogales-area electric system assets of Citizens Utilities Company were acquired in 2003 by UniSource Energy Services, a subsidiary of UniSource Energy Company which is also the parent of Tucson Electric Power Company.

With the active encouragement of ACC Staff, the utilities reached a final agreement and in early 2000 jointly applied to the ACC for a Certificate of Environmental Compatibility⁴ for a 345kV transmission line that would, first, supply the Nogales-Santa Cruz County area and, second, interconnect with the Mexican power grid.⁵

The ACC, acting through its Siting Committee, held eight public hearings between May and October 2001 on the TEP-Citizens proposal. The ACC itself held two public hearings in December 2001.

The hearings considered three potential alignments or corridors for the new 345kV transmission line, shown in the figure on this page.⁶ The options considered by the ACC's Siting Committee and by the Commission itself included an "eastern" "central" and "western" corridor. Each route ran essentially on a north-south axis, with the eastern corridor located to the east of Interstate 19 (I-19), the central corridor located west and relatively close to I-19, and the western corridor running well to the west of the other two routes on the opposite side of a mountain range. Each proposed route involved some use of federal public lands under the jurisdiction of the Bureau of Land Management or the U.S. Forest Service. The central corridor followed essentially the same route identified in the 1992 Western Regional Corridor Study. TEP and Citizens requested the western corridor as the preferred route, and the central corridor as the preferred alternative should federal approvals prove difficult to obtain for the western corridor.



Federal agencies were invited to participate in the Siting Committee and ACC hearings and attended the majority of them. The Siting Committee was aware that the proposed transmission line would need federal approvals to cross federal lands and the international

⁴ Transmission line siting decisions by the ACC are based upon deliberations by and recommendations of the ACC-appointed "Power Plant and Transmission Line Siting Committee." The Committee has eleven members, five *ex officio* members representing various state agencies, and six appointed members of the public. The Committee is chaired by the *ex officio* member representing the state attorney general's office. The Siting Committee is responsible for issuance of a Certificate of Environmental Compatibility (CEC) for proposed transmission projects, with such certificates subject to final review and approval by the ACC itself.

⁵ The proposed 345kV line would run approximately 60 miles from Tucson to Nogales where a new substation would be sited. The 345kV line would be interconnected to the Nogales-area grid through a new 115kV power line. The 345kV line would interconnect with the Mexican grid at a substation approximately 5 miles south of the border.

⁶ Note: The figure on this page shows the three routes considered by the ACC, as well as a fourth "crossover" route later added for study in the DOE EIS process. [See Attachment A.]

border, and Siting Committee members went to considerable lengths to question federal agency officials on the federal approvals process and to understand the relationship between the state and federal reviews.⁷

⁷ For example, representatives from both the Department of Energy and US Forest Service participated in and testified during the May 17, 2001 public meeting of the ACC's Siting Committee. The Forest Service's representative responded to committee members' questions about the relationship between the ACC proceedings and the Forest Service's own permitting processes and role in the federal EIS review of the project, though the record of the May 17th hearing, as well as the various other public hearings, does not reveal that, at any point, the Forest Service voiced specific concerns or opinions related to any of the routes. The following exchange on May 17, 2002, between a member of the Line Siting Committee and the Forest Service representative is typical:

MEMBER WAYNE SMITH: Would our decision have much bearing on yours, or would you study it totally independently of ours?

MR. CONNER: The analysis in the [NEPA] document would drive us in our decision.

MEMBER WAYNE SMITH: Are you aware of, say, the preferred route?

MR. CONNER: Yes.

MEMBER WAYNE SMITH: Are there any glitches that you might be aware of?

MR. CONNER: Until the analysis is complete, I don't know.

MEMBER WAYNE SMITH: I was just wondering if our decision had any bearing on yours.

MR. CONNER: The analysis itself would have, would be the driving force for our decision.

At another point in the same hearing, the Department of Energy's representative was questioned by the Siting Committee's chairman on the comprehensiveness of the federal environmental review. The record indicates that the Chairman was trying to discern whether the federal environmental review would be as comprehensive as the ACC's own:

CHMN. WOODALL: What is going to be the focus of this environmental impact statement? And I ask because the Committee has some statutory criteria that they have to use to look at environmental matters, and I'm trying to determine the extent to which there's going to be an overlap in the subject areas that the Committee is supposed to look at, and those that you will be looking at as a part of your environmental impact statement....I'd like to ask you some questions about -- basically I'm going to be reading to you from our Arizona statute that sets forth the factors that we have to consider in issuing that Certificate of Environmental Compatibility, and it's A.R.S. 40-360.06. And we are supposed to consider fish, wildlife and plant life and associated forms of life upon which they are dependent. Is that something that's going to be covered in the EIS?

MS. RUSSELL: Yes.

CHMN. WOODALL: We're supposed to examine noise, emissions levels, and interference with communications signals. Will that be encompassed in the EIS? Noise, emissions levels, and communications signals.

MS. RUSSELL: Yes, definitely.

CHMN. WOODALL: The next factor, the proposed availability of the site to the public for recreational purposes consistent with safety considerations and regulations.

The three alternative routes were studied extensively for their environmental impacts and the public interest in each. Each route received positive and negative testimony in the hearings, although the great majority of public testimony opposed the central route because of its proximity to and visibility from developed and growing residential areas along I-19, particularly the communities of Green Valley and Tubac. The eastern route, which followed an existing 115kV line, proved problematic because studies showed that requisite additional right-of-way widths were unavailable due to encroaching private housing and commercial development in the area. Use of the route would have required extensive condemnation of private property and raised a variety of technical and reliability concerns related to spacing of lines.

Based on the testimony provided at the hearings, the ACC's Siting Committee formally issued a Certificate of Environmental Compatibility (CEC) for only the western route on October 29, 2001. The ACC itself voted unanimously on January 3, 2002 to approve the CEC for the western route, ordered TEP to construct the 345kV transmission line along the western corridor, and expressly denied permission to use the central or eastern corridors.⁸

The ACC imposed significant environmental mitigation on the project. Among other things, the ACC ordered TEP to construct the transmission line in compliance with "all existing applicable laws, environmental control standards and regulations, ordinances, master plans and regulations of the United States" and the "recommendations, mitigation measures, and actions to

[Footnote 7 cont'd]

MS. RUSSELL: Yes.

CHMN. WOODALL: The fifth criteria is existing scenic areas, historic sites, and structures or archeological sites at or in the vicinity of the proposed site.

MS. RUSSELL: Yes.

CHMN. WOODALL: The total environment of the area.

MS. RUSSELL: Yes.

CHMN. WOODALL: All of these are going to be studied as a part of the EIS process?

MS. RUSSELL: That is correct.

CHMN. WOODALL: Those are all the questions that I have.

ACC Power Plant and Transmission Line Siting Committee, *Transcript of Proceedings, In the Matter of the Joint Application of Tucson Electric Power Company and Citizens Communications Company for a Certificate of Environmental Compatibility*, May 17, 2001, at pages 649-50 (Testimony of Mr. Jerry Conner, US Forest Service), and pages 637-639 (Testimony of Ms. Ellen Russell, US Department of Energy).

⁸ As noted above, TEP's parent company, UniSource Energy, acquired all of Citizens' electric operations in Arizona. UniSource is thus responsible for fulfilling Citizen's obligation to construct a second transmission line to Nogales by the ACC-specified deadline. That deadline, originally December 31, 2003, has been extended by the ACC until June 1, 2004. UniSource faces significant financial penalties from the ACC if it fails to meet the deadline.

reduce or prevent environmental impacts” included in the federal environmental impact statement and record of decision covering the project. [Attachment B]. The ACC, while moving forward to expedite siting of the new line, showed clear and appropriate recognition of the role of the federal agencies and the importance of completing the NEPA-based environmental review.

TEP has spent approximately \$8 million dollars on the project to date. The federal environmental review has cost more than \$2 million already, with those costs expected to rise, as discussed below. TEP has incurred significant additional costs for project engineering, site planning, site preparation, public outreach, and regulatory compliance related to the ACC proceedings.

b. *Federal Agency Proceedings and Involvement*

TEP has been diligent in seeking to engage the relevant federal agencies in the planning process for the new transmission line. TEP provided the several agencies with notice, and in some cases filed applications for federal approvals related to the project prior to completion of the ACC’s site selection process, asking the agencies to consider and express their views on each of the three alternative routes. As a practical matter, the federal agencies have been informed of and involved with the new transmission line project since the year 2000.

1. US DEPARTMENT OF ENERGY INVOLVEMENT

Federal law requires a Presidential Permit issued by the US Department of Energy (DOE) to allow construction of an electric transmission line crossing the US border. TEP filed for a DOE Presidential Permit for this project in August 2000. [Attachment C].

DOE considers the proposed permit in this case to be a “major federal action” under the National Environmental Policy Act (NEPA) and, since mid-2001, the agency has been preparing an Environmental Impact Statement on the project. In issuing a Presidential Permit, DOE is required to determine, among other things, whether doing so is in the public interest. DOE has no transmission line siting authority, *per se*, but because of the centrality of the Presidential Permit to the entire project, DOE is serving as lead agency in preparing the NEPA analysis.

Scoping hearings were held in Arizona during the summer of 2001, and numerous studies have been completed, including biological assessments, roads analyses, plant and animal surveys, aerial photography of the routes and preliminary designs of the project’s pole locations. There have been numerous meetings with various federal and state governmental agencies that have input into the EIS, including the U.S. Forest Service, Arizona Game and Fish Department, US Fish and Wildlife Service and Bureau of Land Management. The parties also consulted extensively with Native American tribes regarding the project.

DOE’s scoping hearings in 2001 drew many witnesses. As was the case with the ACC hearings, each proposed route received support and opposition, but the large majority of public comments opposed use of the central route.

In March 2003, DOE held a meeting in Tucson with the other federal agencies to resolve agency comments to the proposed draft EIS. During this meeting it was agreed that agency comments on the proposed draft EIS would be completed by May 6, 2003. In April 2002 and 2003 representatives of TEP traveled to Washington, DC, to meet with DOE in efforts to expedite the completion and publication of the draft EIS. TEP representatives have also met with the White House Task Force on Energy Project Streamlining to discuss concerns and issues related to the project. Meetings were held in Washington DC on April 30 and May 7 of this year between DOE and the contractor helping prepare the NEPA documentation to resolve comments and language in the draft EIS. During June and July 2003, DOE continued to make edits to the draft.

The draft EIS was released in August 2003 and opened for public comment through mid-October 2003.⁹ Four public hearings in Arizona were conducted on the draft during September 2003. DOE and the contractor are presently considering the comments received from the public and agencies.¹⁰

The draft EIS evaluated three routing alternatives, including two that match the western and central corridors that were also studied by the ACC, and a third route, called the crossover corridor, which follows the western route for much of its initial length, but returns eastward to the I-19 corridor farther north than does the western corridor. The crossover corridor was added to consideration at the same time that DOE determined to drop the eastern corridor from further consideration.

DOE, noting that the ACC had ordered use of the western route, and that TEP had expressed favor for that route, selected the western corridor as the “preferred alternative” for study under the EIS.

The Department of Energy initially projected that the EIS would take 12 months and three days to complete and agreed to a contract cost of \$555,000. Actual time expended so far is

⁹ The draft EIS is posted by DOE at <http://www.ttclients.com/tep/>.

¹⁰ The Staff of the Arizona Corporation Commission submitted comments on the draft EIS which emphasized many of the key findings of the ACC in approving the project. [Attachment D]. The Staff wrote:

“[C]ontinuity of service could not be assured for the residents of Santa Cruz County as long as the [current] transmission line is the sole means of connecting ... to the state grid.... A second transmission line to Citizens’ electric service area is required to resolve this service reliability problem.

[A]dditional benefits are derived from the project as currently defined in the DEIS. Service reliability to Citizens’ customers via the proposed project will be better than what could have been achieved solely with a new 115kV line from [Tucson] to Nogales. The proposed transmission interconnection ... to Mexico offers two other new benefits. It offers the opportunity for bilateral international power transactions between parties on either side of the U.S.-Mexico border. The international interconnection also affords TEP the opportunity to import power to the Tucson service area from the south thereby helping to mitigate its local transmission import constraint.

[More importantly, it] is expected that the Santa Cruz County load will consistently exceed the 60MW rating for the existing 115kV line in the summer of 2004 and beyond.”

32 months and, due to change orders from DOE, the contract price for the environmental review has risen to \$2,301,532, with additional changes of over \$200,000 proposed for the first quarter of 2004 alone. All these costs are being borne by TEP.

The EIS is under the supervision of DOE's office of Fossil Energy. The project manager is Dr. Jerry Pell (202) 586-3362. A DOE-approved contractor, Tetra Tech, Inc., is preparing the EIS. DOE has indicated that a final EIS will be completed within four to six months from December 3, 2003.

2. US FOREST SERVICE INVOLVEMENT

The proposed new transmission line would, under any of the proposed alignments, cross some amount of US Forest Service land in the Coronado National Forest. Any such use of Forest land is evaluated under the Federal Land Policy and Management Act (FLPMA), which requires the agency to consider the public interest in the proposed use and its consistency with applicable forest plans. For the purposes relevant here, the Forest Service relies on NEPA-based analysis to develop the information needed to determine whether to approve a special use permit under FLPMA.

Citizens Utilities had originally applied to the Forest Service in March 2000 for a special use permit for a 115kV transmission line on Coronado National Forest lands. In June 2000, following the decision by Citizens and TEP to pursue a joint project, Citizens submitted an amended application to Forest Service for a special use permit to build and operate a new 345kV transmission line. In March 2001, after meeting with Coronado Forest personnel and filing its application for a CEC with the ACC, TEP filed a new special use permit application for the 345kV project. TEP's permit application requested that the Forest Service evaluate each of the three routes then under consideration by the ACC.

At the same time that TEP applied for a special use permit, TEP and the Coronado National Forest executed a Memorandum of Understanding (MOU) for the "processing of the right-of-way application." [Attachment E]. The MOU notes that TEP "desires to expedite the [Forest Service] decision process and is willing to make funding available on an annual basis to help finance salary and support costs for case processing and analysis." The agreement committed TEP to pay the Forest Service \$473,850 to cover "development and preparation of the [DOE-led] National Environmental Policy Act (NEPA) process" related to the new transmission line. Among other specifications, the agreement committed TEP to fund the cost of a Project Coordinator at a first-year cost of \$111,000. The total cost for the first year of work was set at \$473,850. TEP made an initial payment of \$236,925 to the Coronado National Forest on signing of the March 2001 agreement.

The Forest Service is participating as a cooperating agency with the Department of Energy in preparation of the transmission line environmental impact statement and has been involved in determining the scope and substance of the environmental analyses that underpin both the EIS and the Service's own decision regarding issuance of a special use permit. The

Service has determined that any of the three alternative routes would, if approved, require amendment of the current Coronado National Forest Land and Resource Management Plan.¹¹

As described above, TEP has been working with the Forest Service since 2000 to engage and support in every possible way the agency's evaluation of the proposed line's effects on Coronado National Forest lands. TEP fully acknowledges the Forest Service's land and resource management responsibilities. But there is reason to be uncertain whether the process is leading toward resolution of the underlying challenge of siting the transmission line under conditions considered appropriate by all responsible regulatory authorities. On February 19, 2002, the then-supervisor of the Coronado National Forest wrote the Chairman of the ACC regarding the Commission's decision to authorize and direct TEP to pursue only the western corridor (subject to TEP's obligation to comply with applicable federal laws and the outcome of the federal EIS on the project). [Attachment F]. The Forest Supervisor's letter stated, in relevant part:

*As Forest Supervisor of the Coronado National Forest, it is my responsibility to make decisions on use of these NFS lands....I will use [the DOE-led EIS analysis] to decide if transmission line development is appropriate, and if so, through which portion of the Coronado National Forest....It appears to me that the Commission's January 3, 2002, action is either premature and/or circumvents federal jurisdiction and my authority.*¹²

Further, the Forest Service recently provided TEP and the cooperating agencies preparing the EIS with the agency's forecast of the time required to complete its analysis of the proposed project and to issue and put into force any new approvals. [Attachment G]. The time forecast is extremely pessimistic, estimating that the Forest Service would not render a decision in this matter for almost another year and that implementation of the Service's decision would likely be delayed for more than half-a-year thereafter. In addition, the Forest Service's recent forecast is very disturbing in that it signals that the agency is already preparing to formally disagree with the other federal agencies (and perhaps the ACC) regarding the final decision in this matter. According to the forecast:

¹¹ TEP notes that the Service's conclusion regarding a requirement to amend the current Forest Plan as to the central corridor alternative seems inconsistent with the fact that the proposed corridor would be adjacent to an existing utility corridor identified in the current Land and Resource Management Plan, a routing also identified in the 1992 Western Regional Corridor Study that was endorsed by the Chief of the Forest Service in July 1993. The Coronado National Forest Supervisor's February 19, 2002 letter cited below also notes: "For your information, the Coronado Forest Plan identifies a corridor in the vicinity of the desired routes within the two proposals. The Forest Plan (page 41) states: 'existing utility and transportation corridors will continue to be used for those types of uses'."

¹² The ACC Chairman responded in a March 8, 2002 letter that states, in relevant part: "I am bewildered at the timing of your letter, considering one month has passed since the Commission decided the matter at a Special Open Meeting on January 15, 2002. The obvious question comes to mind: Why did you wait so long to raise your concerns regarding the placement of a part of TEP's transmission line running through the Coronado National Forest? [As] you know, the granting of the CEC is contingent upon [TEP] complying with all existing applicable laws, environmental control standards, ordinances, master plans and regulations of the United States..... Since May 2001, you have had ample opportunity to voice your concerns about the transmission line.... It was incumbent upon you to make your concerns part of the record before the Commission acted on the Line Siting Committee recommendation to grant the CEC." Letter from William A. Mundell to John M. McGee (March 8, 2002).

The Forest Service (FS) decision maker will name a preferred alternative in the final EIS. At this time it is not known what that alternative may be. The FS preferred alternative could be any of the action alternatives or the no action alternative. The U.S. Fish and Wildlife Service designation of critical habitat for the Mexican Spotted Owl (MSO) will have consideration in the FS decision maker's determination of a preferred alternative. It is not known if our current acting Forest Supervisor (Sue Kozacek) or the new Forest Supervisor (Jeanine Derby) will make the determination of a preferred alternative. A determination of a preferred alternative in the final EIS does not mean the preferred alternative will be the final decision in the record of decision (ROD), a different alternative could be chosen in the ROD.

The words of the Forest Service's document imply that the current federal review process may be further attenuated by a series of additional consecutive, not concurrent, analyses of alternatives under the Endangered Species Act, FLPMA, the National Forest Management Act or perhaps NEPA itself.

The Coronado National Forest has been represented in the transmission line NEPA analysis by Mr. Jerry Conner (520) 670-4527.

3. US BUREAU OF LAND MANAGEMENT INVOLVEMENT

A very small segment (1.25 mi) of each of the three alternatives under study in the DOE-led EIS would cross land administered by the US Bureau of Land Management (BLM). TEP applied to BLM for a special use permit in March 2001, and like the Forest Service, BLM must evaluate the application under FLPMA. BLM is serving as a cooperating agency with DOE in preparation of the overall transmission line environmental analysis under NEPA and is relying on that analysis to develop the information needed to make the FLPMA-mandated determination of whether granting the special use permit is in the public interest. BLM's lead representative in the NEPA process is Mr. Keith Moon (602) 417-9345. TEP has also signed a funding agreement with the BLM and to date has forwarded \$95,000 to the agency.

The BLM recently issued a document stating that, under optimal conditions, it expects to complete its deliberations on approval of the right-of-way in 315 days from the close of comments on the draft EIS. [Attachment H]. However, the BLM document also states that the agency may not be in a position to allow construction over its lands *for more than three years*, assuming challenges are filed to its determination.

4. US SECTION OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION INVOLVEMENT

The US Section of the International Boundary Water Commission (USIBWC) is a cooperating agency with DOE in the NEPA review of the proposed transmission line. The USIBWC is charged with determining whether the proposed project will affect the international boundary and, in particular, transboundary water flows. The agency has indicated that, so long as the project's transmission towers are sited at least 60 feet from the international border, and do not cause changes in water flow, the agency will not object to the project.

The USIBWC's principal representative on the transmission line study is Mr. Doug Echlin (915) 832-4741. The USIBWC has not yet indicated when it will complete its review of the project.

5. US FISH AND WILDLIFE SERVICE INVOLVEMENT

There are ten plant and animal species listed under the federal Endangered Species Act (ESA) in the areas of the three potential transmission corridors. Critical habitat for one ESA-listed fish specie overlaps with one of the proposed alignments. In response to a recent federal court order, it is likely that some Coronado National Forest lands that would be used by any of the alternative alignments may be designated in coming months as critical habitat for the Mexican spotted owl.

As required by the ESA, the Department of Energy has provided the US Fish and Wildlife Service (FWS) with Biological Assessments (BAs) for each of the three alternative corridors. DOE initiated formal section 7 consultation with the FWS on November 18, 2003 and requested consultation on the proposed western corridor. [Attachment I].

The BAs found that each alignment would likely affect, and in some cases adversely affect, certain listed species, while none of the alignments would result in take of a protected species or destruction or adverse modification of critical habitat. The FWS recently stated that the agency will complete the consultation on the western corridor within the statutory maximum period of 135 days from November 18th (i.e., March 22, 2004).

The principal contact for the FWS is Ms. Mima Falk (520) 670-4550. The Fish and Wildlife Service is not participating as a cooperating agency in the transmission line EIS.

III. Summary and Conclusion

The residents and businesses of southern Arizona have been waiting since 1999 for key improvements in the transmission system that serves them. As they wait, their homes and businesses continue to suffer an unacceptable risk to continuity and restoration of electrical service. US and Mexican populations and markets along the Arizona-Sonora border continue to grow rapidly, but lack access to efficient electric generation because the power grid is not interconnected.

The State of Arizona has carefully considered and approved measures to remedy these very real problems -- and has ordered TEP to implement them. But after years of work, federal agencies have yet to grant any of the major approvals or permits that would allow TEP to move forward.

The White House Task Force on Energy Project Streamlining should immediately take those measures needed to:

- Facilitate the greatest possible degree of timely cooperation among the various federal agencies involved in evaluating the Sahuarita-Nogales Transmission Line project;
- Assist those federal agencies in resolving any questions or differences of perspective with the Arizona Corporation Commission; and
- Set and implement a deadline of May 1, 2004 for issuance of a final Record of Decision on the transmission line EIS, issuance of RODs by the USFS and BLM on TEP's applications for special use permits, completion of the USIBWC review, and completion of consultation under ESA.

Tucson Electric Power Company greatly appreciates your consideration of this important issue. For further information, please do not hesitate to contact:

Steven J. Glaser, Senior Vice President and
Chief Operating Officer, Transmission and Distribution
Tucson Electric Power Company (520) 745-3124 or,

Thomas C. Jensen, Washington Counsel to Tucson Electric Power Company
Troutman Sanders LLP (202) 274-2945.

Attachments

- A - Map of Potential Transmission Corridors
- B - ACC Order No. 64356 (January 15, 2002)
- C - TEP Application for Presidential Permit, (August 17, 2000)
- D - ACC Staff Comments on DEIS (October 14, 2003)
- E - TEP-USFS MOU (May 21, 2001)
- F - Letter from Coronado Forest Supervisor John McGee to ACC Chairman Mundell (February 19, 2002)
- G - USFS document entitled "Estimated Time to Initiate a TEP Project Action Alternative (November 25, 2003).
- H - BLM document entitled "Estimated Time to Initiate a TEP Project Action Alternative (November 25, 2003)
- I - DOE Letter to USFWS Requesting Section 7 Consultation on Western Route (November 18, 2003)

Attachment A.

Sahuarita-Nogales Transmission Line Project
Proposed Routing Corridors

